

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.435 State and Local Taxes Other Than Retailers' Occupation Tax

**TITLE 86: REVENUE
PART 130
RETAILERS' OCCUPATION TAX**

Section 130.435 State and Local Taxes Other Than Retailers' Occupation Tax

- a) Illinois Motor Fuel Tax and Cigarette Tax
 - 1) In calculating taxable receipts, sellers of motor fuel for use or consumption may deduct the Illinois Motor Fuel Tax collected by such sellers with respect to such sales, because the Illinois Motor Fuel Tax is on the consumer and is not considered to be a part of the "selling price" of the motor fuel.
 - 2) The amount of the retail selling price of cigarettes represented by the Cigarette Tax or Cigarette Use Tax may not be deducted from the seller's gross receipts from the sale in computing Retailers' Occupation Tax liability.
- b) Illinois and Cook County Liquor Gallonage Taxes

No amounts shall be deducted from gross receipts on account of the taxes imposed by The Liquor Control Act of 1934 in computing Retailers' Occupation Tax liability on retail sales of alcoholic beverages. That is true because the legal incidence of these taxes is on the manufacturer or importing distributor and not on the consumer. The retailer does not act, in any legal sense, as a collector of these taxes even though he shifts the economic burden of them to the consumer. Since the legal incidence of the Cook County Liquor Gallonage Tax is on the consumer, with the seller acting merely as a collector of the tax for the county, amounts collected because of the Cook County Liquor Tax are not considered to be a part of the liquor retailer's receipts that are subject to Retailers' Occupation Tax.

- c) Underground Storage Tank Tax, Environmental Impact Fee, and County Motor Fuel Taxes

The Underground Storage Tank Tax imposed under Section 2a of the Motor Fuel Tax Law and the Environmental Impact Fee imposed under the Environmental Impact Fee Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon receivers of fuel and not upon consumers. In addition, County Motor Fuel Taxes imposed under the County Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers.

(Source: Amended at 24 Ill. Reg. 15104, effective October 2, 2000)